



(NOW)
State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1649/45

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DOA:.....Johnston, BB0423 - Health care quality improvement

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 ^{Do Not Gen}
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

HEALTH

Under current law, DHFS must collect, analyze, and disseminate health care information from health care providers other than hospitals and ambulatory surgery centers; in addition, DOA must contract with an entity to collect, analyze, and disseminate health care information from hospitals and ambulatory surgery centers. Both DHFS and the entity under contract with DOA must, from the data collected, prepare certain reports that do not permit the identification of a patient, an employer, or a health care provider. The Board on Health Care Information, attached to DHFS, must advise DHFS on the collection, analysis, and dissemination of health care information; provide oversight on the reports issued by DHFS and the entity under contract with DOA; and develop overall strategy and direction for health care information collection activities. Activities of the Board on Health Care Information and DHFS are funded from fees for performance of certain work under contract and from assessments that are annually levied on health care providers other than hospitals and ambulatory surgery centers.

This bill eliminates the Board on Health Care Information as of October 1, 2005, and replaces it on that date with a nine-member Health Care Quality and Patient Safety Board (HCQPSB), attached to DOA, which assumes the duties and powers of the Board on Health Care Information. In addition, the HCQPSB must do all of the following:

1. By March 1, 2006, study and make recommendations concerning the feasibility of creating a centralized physician information database.

2. By October 1, 2006, study and make recommendations concerning rules required and authorized to be promulgated by DHFS concerning the collection, analysis, and dissemination of health care information.

3. By January 1, 2007, develop a plan and specific strategies to deploy health care information systems technology for health care quality, safety, and efficiency.

4. Annually report on its plans, activities, accomplishments, and recommendations.

5. Annually assess the extent to which automated information and decision support systems are used by health care providers in Wisconsin.

6. Annually assess options and develop a plan to achieve automation of all health care systems in Wisconsin by 2010.

7. Make grants or loans to clinics, health maintenance organizations, hospitals, or physicians for various projects.

The bill creates the health care quality improvement fund, a segregated fund that consists of moneys transferred from the injured patients and families compensation fund, the net proceeds of certain revenue obligations, a portion of the annual assessments levied on health care providers other than hospitals and ambulatory surgery centers, and the repayment of any loans made by the HCQPSB. Funds of the health care quality improvement fund are, under the bill, appropriated for general program operations of the HCQPSB, for grants or loans made by the ~~HCQPSB, and for benefits under the Medical Assistance (MA) program, including specified hospital payments in specified amounts.~~

Under the bill, the entity under contract with DOA must annually report to the HCQPSB concerning the fulfillment of the entity's obligations under the contract. Also, before July 1, 2007, DHFS may promulgate only those rules relating to the collection, analysis, and dissemination of health care information that are first approved by the HCQPSB.

OTHER HEALTH AND HUMAN SERVICES

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) provides financial assistance to private and public health facilities and hospitals. This bill prohibits WHEFA from providing such financial assistance unless the health facility or hospital demonstrates to the Health Care Quality and Patient Safety Board (HCQPSB) that the health facility or hospital is making efforts to improve medical technology.

INSURANCE

Under current law, certain health care providers are required to carry health care liability insurance with liability limits of at least \$1,000,000 for each occurrence and at least \$3,000,000 for all occurrences in a policy year. Any portion of a medical malpractice claim against a health care provider subject to the health care liability insurance requirements that exceeds the policy limits of the health care provider's health care liability insurance is paid by the injured patients and families compensation fund. Moneys for the fund come from annual assessments paid by the health care providers who are subject to the health care liability insurance

payments for direct graduate medical education ↑ a major managed care supplement, a pediatric services supplement, rural hospital supplement, and an essential access city hospital supplement

requirements. Current law provides that the fund is established to curb the rising costs of health care by financing part of the liability incurred by health care providers as a result of medical malpractice claims and that the fund is held in irrevocable trust for the sole benefit of providers and proper claimants and may not be used for any other purpose of the state.

This bill transfers ~~\$133,843,400~~ ^{\$140,286,000} in fiscal year 2005-06 and ~~\$8,854,000~~ ^{\$9,714,000} in fiscal year 2006-07 from the injured patients and families compensation fund to the health care quality improvement fund, as created in the bill. The bill also adds to the stated purposes of the injured patients and families compensation fund the purposes of ensuring the availability of health care providers in Wisconsin and of enabling the deployment of health care information systems technology for health care quality, safety, and efficiency, by the Health Care Quality and Patient Safety Board (HCQPSB), as created in the bill.

STATE GOVERNMENT

STATE FINANCE

This bill creates a program to issue revenue obligations to fund costs associated with the reform of the Medical Assistance program. Under the bill, funds for the program may not exceed \$125,000,000. The bill provides that the principal and interest costs on the revenue obligations are to be paid from excise taxes that are currently imposed on the sale of liquor, fermented malt beverages, cigarettes, and tobacco products. These taxes are to be deposited into the excise tax fund, a fund under current law that can be used for any revenue obligations issued to pay the state's unfunded prior service liability under the Wisconsin Retirement System (WRS). To dedicate moneys in the excise tax fund for the payment of these grants, the bill eliminates the state's authority to issue revenue obligations secured by tax revenues derived from the sale of liquor, fermented malt beverages, cigarettes, and tobacco products for the payment of the state's unfunded prior liability under the WRS. Obligations for this purpose have already been issued under other current law authority.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 15.07 (2) (b) of the statutes is repealed.
- 2 **SECTION 2.** 15.07 (2) (n) of the statutes is created to read:
- 3 15.07 (2) (n) The chairperson of the health care quality and patient safety board
- 4 shall be designated biennially by the governor.
- 5 **SECTION 3.** 15.07 (3) (bm) 1. of the statutes is repealed.

1 **SECTION 4.** 15.105 (13) of the statutes is created to read:

2 **15.105 (13) HEALTH CARE QUALITY AND PATIENT SAFETY BOARD.** (a) *Creation;*
3 *membership.* There is created a health care quality and patient safety board,
4 attached to the department of administration under s. 15.03, consisting of the
5 following members:

6 1. The secretary of health and family services, the secretary of employee trust
7 funds, and the secretary of administration or their designees.

8 2. One physician, as defined in s. 448.01 (5).

9 3. One representative of hospitals.

10 4. One employer purchaser of health care.

11 5. One representative of the insurance industry.

12 6. One representative of health maintenance organizations, as defined in s.
13 609.01 (2).

14 7. One member who shall represent the public interest.

15 (b) *Terms.* The board members specified in par. (a) 2. to 7. shall be appointed
16 for 4-year terms.

17 **SECTION 5.** 15.195 (6) of the statutes is repealed.

18 **SECTION 6.** 16.03 (3) of the statutes is amended to read:

19 **16.03 (3) REPORT.** The interagency coordinating council shall report at least
20 twice annually to the health care quality and patient safety board ~~on health care~~
21 ~~information~~ in the department of health and family services administration,
22 concerning the council's activities under this section.

23 **SECTION 7.** 16.526 (title) of the statutes is repealed and recreated to read:

24 **16.526 (title) Revenue obligation program to fund costs associated**
25 **with the reform of the Medical Assistance program.**

1 **SECTION 8.** 16.526 (1) of the statutes is amended to read:

2 16.526 (1) For purposes of subch. II of ch. 18, the purposes of obtaining proceeds
3 to pay ~~the state's anticipated unfunded prior service liability under s. 40.05 (2) (b)~~
4 ~~and of paying the state's unfunded prior service liability under s. 40.05 (2) (b) and the~~
5 ~~state's unfunded liability under s. 40.05 (4) (b), (be), and (bw) and subch. IX of ch. 40~~
6 fund costs associated with the reform of the Medical Assistance program is a special
7 fund program, and the excise tax fund is a special fund. The legislature finds and
8 determines that the excise tax fund is a segregated fund consisting of fees, penalties,
9 or excise taxes and that the special state program to pay the state's unfunded prior
10 ~~service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05~~
11 ~~(4) (b), (be), and (bw) and subch. IX of ch. 40~~ fund costs associated with the reform
12 of the Medical Assistance program from the net proceeds of revenue obligations
13 issued under this section is appropriate and will serve a public purpose.

14 **SECTION 9.** 16.526 (2) of the statutes is amended to read:

15 16.526 (2) The net proceeds of revenue obligations issued under subch. II of ch.
16 18, as authorized under this section, shall be deposited in a fund in the state treasury,
17 or an account maintained by a trustee, created under s. 18.57 (1). The moneys shall
18 be applied for ancillary payments and for the provision of reserves, as determined
19 by the building commission, and for the payment of part or all of the state's unfunded
20 ~~prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under~~
21 ~~s. 40.05 (4) (b), (be), and (bw) and subch. IX of ch. 40, as determined by the~~
22 ~~department,~~ costs associated with the reform of the Medical Assistance program, and
23 any remainder shall be paid into ~~a retirement liability~~ an excise tax revenue
24 obligation redemption fund created under 18.562 (3).

25 **SECTION 10.** 16.526 (5) (b) of the statutes is amended to read:

1 16.526 (5) (b) Except as otherwise provided in this paragraph, the secretary
2 shall determine the requirements for funds to be obtained from revenue obligations
3 issued under this section to pay the state's ~~anticipated unfunded prior service~~
4 liability under s. 40.05 (2) (b) and funds used for the payment of the state's unfunded
5 prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under
6 s. 40.05 (4) (b), (be), and (bw) and subch. IX of ch. 40, that are to be paid from revenue
7 obligations issued under this section, ~~shall be determined by the secretary costs~~
8 associated with the reform of the Medical Assistance program. The sum amount of
9 expenditures to be paid from revenue obligations issued under this section and
10 ~~appropriation obligations issued under s. 16.527, if any, excluding any appropriation~~
11 revenue obligations that have been defeased under a cash optimization program
12 administered by the building commission and ~~any appropriation obligations issued~~
13 ~~pursuant to s. 16.527 (3) (b) 3., shall not exceed \$1,500,000,000~~ \$125,000,000.

14 **SECTION 11.** 16.526 (5) (c) of the statutes is created to read:

15 16.526 (5) (c) For the purpose of s. 18.58 (4), the department is carrying out
16 program responsibilities for which the revenue obligations are authorized under this
17 section.

18 **SECTION 12.** 16.527 (3) (b) 2. of the statutes is amended to read:

19 16.527 (3) (b) 2. The sum of appropriation obligations issued under this section,
20 excluding any obligations that have been defeased under a cash optimization
21 program administered by the building commission and any obligations issued
22 pursuant to subd. 3., and ~~revenue obligations issued under s. 16.526, if any, may not~~
23 exceed \$1,500,000,000.

24 **SECTION 13.** 18.55 (5) of the statutes is amended to read:

1 18.55 (5) EXERCISE OF AUTHORITY. Money may be borrowed and evidences of
2 revenue obligation issued therefor pursuant to one or more authorizing resolutions,
3 unless otherwise provided in the resolution or in this subchapter, at any time and
4 from time to time, for any combination of purposes, in any specific amounts, at any
5 rates of interest, for any term, payable at any intervals, at any place, in any manner
6 and having any other terms or conditions deemed necessary or useful. Revenue
7 obligation bonds may bear interest at variable or fixed rates, bear no interest or bear
8 interest payable only at maturity or upon redemption prior to maturity. Unless
9 sooner exercised or unless a ~~shorter~~ different period is provided in the resolution,
10 every authorizing resolution, except as provided in s. 18.59 (1), shall expire one year
11 after the date of its adoption.

12 **SECTION 14.** 18.61 (5) of the statutes is amended to read:

13 18.61 (5) The legislature may provide, with respect to any specific issue of
14 revenue obligations, prior to their issuance, that if the special fund income or the
15 enterprise or program income pledged to the payment of the principal and interest
16 of the issue is insufficient for that purpose, or is insufficient to replenish a reserve
17 fund, if applicable, it will consider supplying the deficiency by appropriation of funds,
18 from time to time, out of the treasury. If the legislature so provides, the commission
19 may make the necessary provisions therefor in the authorizing resolution and other
20 proceedings of the issue. Thereafter, if the contingency occurs, recognizing its moral
21 obligation to do so, the legislature hereby expresses its expectation and aspiration
22 that it shall make such appropriation.

23 **SECTION 15.** 20.435 (4) (hg) of the statutes is renumbered 20.435 (1) (hg) and
24 amended to read:

1 20.435 (1) (hg) *General program operations; health care information.* The
2 amounts in the schedule to fund the activities of the department of health and family
3 services ~~and the board on health care information~~ under ch. 153. The contract fees
4 paid under s. 153.05 (6m) and assessments paid under s. 153.60, less \$250,000 in
5 assessments paid in each fiscal year, shall be credited to this appropriation account.

****NOTE: This is reconciled s. 20.435 (4) (hg). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0316/2 and LRB-1649/3.

6 **SECTION 16.** 20.435 (4) (r) of the statutes is created to read:

7 20.435 (4) (r) *Health care quality improvement fund; Medical Assistance*
8 *reform.* From the health care quality improvement fund, as a continuing
9 appropriation, the amounts in the schedule to provide a portion of the state share of
10 Medical Assistance program benefits administered under s. 49.45, to provide a
11 portion of the Medical Assistance program benefits administered under s. 49.45 that
12 are not also provided under par. (o), to fund the pilot project under s. 46.27 (9) and
13 (10), to provide a portion of the facility payments under 1999 Wisconsin Act 9, section
14 9123 (9m), to fund services provided by resource centers under s. 46.283, and for
15 services under the family care benefit under s. 46.284 (5).

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

16 **SECTION 17.** 20.435 (4) (rm) of the statutes is created to read:

17 20.435 (4) (rm) *Health care quality improvement fund; hospital supplemental*
18 *payments.* From the health care quality improvement fund, the amounts in the
19 schedule to provide ~~the~~ payments ~~specified in 2005 Wisconsin Act ... (this act)~~
20 ~~section 9121 (3)~~ INSERT 8-20 ✓

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

21 **SECTION 18.** 20.505 (1) (sd) of the statutes is amended to read:

1 20.505 (1) (sd) *Revenue obligation proceeds to pay the state's unfunded liability*
2 *under the Wisconsin Retirement System fund costs associated with the reform of the*
3 *Medical Assistance program.* As a continuing appropriation, all proceeds from
4 revenue obligations that are issued under subch. II of ch. 18, as authorized under s.
5 16.526, and deposited in a fund in the state treasury, or in an account maintained by
6 a trustee, created under s. 18.57 (1), as authorized under s. 16.526 (2), to pay part
7 or all of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's
8 unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40, as
9 determined by the department of administration be transferred to the health care
10 quality improvement fund, and to provide for reserves and to make ancillary
11 payments, as determined by the building commission, and the remainder to be
12 transferred to ~~a retirement liability~~ an excise tax revenue obligation redemption
13 fund created under s. 18.562 (3). Estimated disbursements under this paragraph
14 shall not be included in the schedule under s. 20.005.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 19.** 20.505 (1) (sh) of the statutes is amended to read:

16 20.505 (1) (sh) *Excise tax fund — revenue obligation repayment.* From the
17 excise tax fund, a sum sufficient to pay ~~a retirement liability~~ an excise tax revenue
18 obligation redemption fund created under s. 18.562 (3) the amount needed to pay the
19 principal of and premium, if any, and interest on revenue obligations issued under
20 subch. II of ch. 18, as authorized under s. 16.526, and to make ancillary payments
21 authorized by the authorizing resolution for the revenue obligations. Estimated
22 disbursements under this paragraph shall not be included in the schedule under s.
23 20.005.

1 **SECTION 20.** 20.505 (1) (sm) of the statutes is amended to read:

2 20.505 (1) (sm) *Excise tax fund — provision of reserves and payment of ancillary*
3 *costs relating to revenue obligations.* From the excise tax fund, a sum sufficient to
4 provide for reserves and for ancillary payments relating to revenue obligations
5 issued under subch. II of ch. 18, as authorized under s. 16.526 and the resolution
6 authorizing the revenue obligations. Estimated disbursements under this
7 paragraph shall not be included in the schedule under s. 20.005.

8 **SECTION 21.** 20.505 (1) (sp) of the statutes is amended to read:

9 20.505 (1) (sp) *Revenue obligation debt service.* From ~~a retirement liability~~ an
10 excise tax revenue obligation redemption fund created under s. 18.562 (3), all moneys
11 received by the fund for the payment of principal of and premium, if any, and interest
12 on revenue obligations issued under subch. II of ch. 18, as authorized under s. 16.526,
13 and for ancillary payments authorized by the authorizing resolution for the revenue
14 obligations. All moneys received by the fund are irrevocably appropriated in
15 accordance with subch. II of ch. 18 and further established in resolutions authorizing
16 the issuance of the revenue obligations under s. 16.526 and setting forth the
17 distribution of funds to be received thereafter. Estimated disbursements under this
18 paragraph shall not be included in the schedule under s. 20.005.

19 **SECTION 22.** 20.505 (4) (i) of the statutes is created to read:

20 20.505 (4) (i) *Health care quality and patient safety board; gifts and grants.* All
21 money received from gifts, grants, bequests, and devises to the health care quality
22 and patient safety board, for the purposes for which made.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

23 **SECTION 23.** 20.505 (4) (q) of the statutes is created to read:

1 20.505 (4) (q) *Health care quality and patient safety board; general program*
2 *operations.* Biennially, from the health care quality improvement fund, the amounts
3 in the schedule for general program operations of the health care quality and patient
4 safety board.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 24.** 20.505 (4) (qb) of the statutes is created to read:

6 20.505 (4) (qb) *Health care quality and patient safety board; grants or loans.*
7 As a continuing appropriation, from the health care quality improvement fund, the
8 amounts in the schedule for grants or loans under s. 153.076.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 25.** 25.17 (1) (gd) of the statutes is created to read:

10 25.17 (1) (gd) Health care quality improvement fund (s. 25.775);

11 **SECTION 26.** 25.775 of the statutes is created to read:

12 **25.775 Health care quality improvement fund.** There is created a
13 separate nonlapsible trust fund designated as the health care quality improvement
14 fund, consisting of all of the following:

15 (1) All moneys transferred under 2005 Wisconsin Act (this act), section 9225
16 (1).

17 (2) All moneys received from s. 20.505 (1) (sd).

18 (3) In each fiscal year, \$250,000 of the assessments paid under s. 153.60.

19 (4) Repayment of any loans made under s. 153.076 (2).

20 **SECTION 27.** 46.27 (9) (a) of the statutes is amended to read:

21 46.27 (9) (a) The department may select up to 5 counties that volunteer to
22 participate in a pilot project under which they will receive certain funds allocated for

1 long-term care. The department shall allocate a level of funds to these counties
2 equal to the amount that would otherwise be paid under s. 20.435 (4) (b), (gp), (r), or
3 (w) to nursing homes for providing care because of increased utilization of nursing
4 home services, as estimated by the department. In estimating these levels, the
5 department shall exclude any increased utilization of services provided by state
6 centers for the developmentally disabled. The department shall calculate these
7 amounts on a calendar year basis under sub. (10).

8 **SECTION 28.** 46.27 (10) (a) 1. of the statutes is amended to read:

9 46.27 (10) (a) 1. The department shall determine for each county participating
10 in the pilot project under sub. (9) a funding level of state medical assistance
11 expenditures to be received by the county. This level shall equal the amount that the
12 department determines would otherwise be paid under s. 20.435 (4) (b), (gp), (r), or
13 (w) because of increased utilization of nursing home services, as estimated by the
14 department.

15 **SECTION 29.** 46.275 (5) (a) of the statutes is amended to read:

16 46.275 (5) (a) Medical Assistance reimbursement for services a county, or the
17 department under sub. (3r), provides under this program is available from the
18 appropriation accounts under s. 20.435 (4) (b), (gp), (o), (r), and (w). If 2 or more
19 counties jointly contract to provide services under this program and the department
20 approves the contract, Medical Assistance reimbursement is also available for
21 services provided jointly by these counties.

22 **SECTION 30.** 46.275 (5) (c) of the statutes is amended to read:

23 46.275 (5) (c) The total allocation under s. 20.435 (4) (b), (gp), (o), (r), and (w)
24 to counties and to the department under sub. (3r) for services provided under this
25 section may not exceed the amount approved by the federal department of health and

1 human services. A county may use funds received under this section only to provide
2 services to persons who meet the requirements under sub. (4) and may not use
3 unexpended funds received under this section to serve other developmentally
4 disabled persons residing in the county.

5 **SECTION 31.** 46.278 (6) (d) of the statutes is amended to read:

6 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
7 share of service costs under a waiver received under sub. (3), the department may,
8 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
9 that the county provides under this section to persons who are in addition to those
10 who may be served under this section with funds from the appropriation under s.
11 20.435 (4) (b), (r), or (w).

12 **SECTION 32.** 46.283 (5) of the statutes is amended to read:

13 46.283 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b),
14 (bm), (gp), (pa), (r), and (w) and (7) (b), (bd), and (md), the department may contract
15 with organizations that meet standards under sub. (3) for performance of the duties
16 under sub. (4) and shall distribute funds for services provided by resource centers.

17 **SECTION 33.** 46.284 (5) (a) of the statutes is amended to read:

18 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (gp),
19 (im), (o), (r), and (w) and (7) (b) and (bd), the department shall provide funding on a
20 capitated payment basis for the provision of services under this section.
21 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
22 under contract with the department may expend the funds, consistent with this
23 section, including providing payment, on a capitated basis, to providers of services
24 under the family care benefit.

25 **SECTION 34.** 49.45 (2) (a) 17. of the statutes is amended to read:

1 49.45 (2) (a) 17. Notify the governor, the joint committee on legislative
2 organization, the joint committee on finance, and appropriate standing committees,
3 as determined by the presiding officer of each house, if the appropriation accounts
4 under s. 20.435 (4) (b) ~~and~~, (gp), and (r) are insufficient to provide the state share of
5 medical assistance.

6 **SECTION 35.** 49.45 (5m) (am) of the statutes is amended to read:

7 49.45 (5m) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
8 under s. 20.435 (4) (b), ~~(gp)~~, (o), and ~~(w)~~ (rm), the department shall distribute not
9 more than \$2,256,000 in each fiscal year, to provide supplemental funds to rural
10 hospitals that, as determined by the department, have high utilization of inpatient
11 services by patients whose care is provided from governmental sources, and to
12 provide supplemental funds to critical access hospitals, except that the department
13 may not distribute funds to a rural hospital or to a critical access hospital to the
14 extent that the distribution would exceed any limitation under 42 USC 1396b (i) (3).

15 **SECTION 36.** 49.45 (6m) (ag) (intro.) of the statutes is amended to read:

16 49.45 (6m) (ag) (intro.) Payment for care provided in a facility under this
17 subsection made under s. 20.435 (4) (b), (gp), (pa), (o), (r), (w), or (wm) shall, except
18 as provided in pars. (bg), (bm), and (br), be determined according to a prospective
19 payment system updated annually by the department. The payment system shall
20 implement standards that are necessary and proper for providing patient care and
21 that meet quality and safety standards established under subch. II of ch. 50 and ch.
22 150. The payment system shall reflect all of the following:

23 **SECTION 37.** 49.45 (6v) (b) of the statutes is amended to read:

24 49.45 (6v) (b) The department shall, each year, submit to the joint committee
25 on finance a report for the previous fiscal year, ~~except for the 1997–98 fiscal year,~~ that

1 provides information on the utilization of beds by recipients of medical assistance in
2 facilities and a discussion and detailed projection of the likely balances,
3 expenditures, encumbrances, and carry over of currently appropriated amounts in
4 the appropriation accounts under s. 20.435 (4) (b), (gp), and (o), and (r).

5 **SECTION 38.** 49.45 (6x) (a) of the statutes is amended to read:

6 49.45 (6x) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
7 under s. 20.435 (4) ~~(b), (gp), (o), and (w)~~ (rm), the department shall distribute not
8 more than \$4,748,000 \$6,248,000 in each fiscal year, to provide funds to an essential
9 access city hospital, except that the department may not allocate funds to an
10 essential access city hospital to the extent that the allocation would exceed any
11 limitation under 42 USC 1396b (i) (3).

12 **SECTION 39.** 49.45 (6y) (a) of the statutes is amended to read:

13 49.45 (6y) (a) Notwithstanding sub. (3) (e), from the appropriation accounts
14 under s. 20.435 (4) (b), (gp), (o), (r), and (w), the department shall distribute funding
15 in each fiscal year to provide supplemental payment to hospitals that enter into a
16 contract under s. 49.02 (2) to provide health care services funded by a relief block
17 grant, as determined by the department, for hospital services that are not in excess
18 of the hospitals' customary charges for the services, as limited under 42 USC 1396b
19 (i) (3). If no relief block grant is awarded under this chapter or if the allocation of
20 funds to such hospitals would exceed any limitation under 42 USC 1396b (i) (3), the
21 department may distribute funds to hospitals that have not entered into a contract
22 under s. 49.02 (2).

23 **SECTION 40.** 49.45 (6y) (am) of the statutes is amended to read:

24 49.45 (6y) (am) Notwithstanding sub. (3) (e), from the appropriation accounts
25 under s. 20.435 (4) (b), (h), (gp), (o), (r), and (w), the department shall distribute

1 funding in each fiscal year to provide supplemental payments to hospitals that enter
2 into contracts under s. 49.02 (2) with a county having a population of 500,000 or more
3 to provide health care services funded by a relief block grant, as determined by the
4 department, for hospital services that are not in excess of the hospitals' customary
5 charges for the services, as limited under 42 USC 1396b (i) (3).

6 **SECTION 41.** 49.45 (6z) (a) (intro.) of the statutes is amended to read:

7 49.45 (6z) (a) (intro.) Notwithstanding sub. (3) (e), from the appropriation
8 accounts under s. 20.435 (4) (b), (gp), (o), (r), and (w), the department shall distribute
9 funding in each fiscal year to supplement payment for services to hospitals that enter
10 into a contract under s. 49.02 (2) to provide health care services funded by a relief
11 block grant under this chapter, if the department determines that the hospitals serve
12 a disproportionate number of low-income patients with special needs. If no medical
13 relief block grant under this chapter is awarded or if the allocation of funds to such
14 hospitals would exceed any limitation under 42 USC 1396b (i) (3), the department
15 may distribute funds to hospitals that have not entered into a contract under s. 49.02
16 (2). The department may not distribute funds under this subsection to the extent
17 that the distribution would do any of the following:

18 **SECTION 42.** 49.45 (8) (b) of the statutes is amended to read:

19 49.45 (8) (b) Reimbursement under s. 20.435 (4) (b), (gp), (o), (r), and (w) for
20 home health services provided by a certified home health agency or independent
21 nurse shall be made at the home health agency's or nurse's usual and customary fee
22 per patient care visit, subject to a maximum allowable fee per patient care visit that
23 is established under par. (c).

24 **SECTION 43.** 49.45 (24m) (intro.) of the statutes is amended to read:

1 **49.45 (24m)** HOME HEALTH CARE AND PERSONAL CARE PILOT PROGRAM. (intro.)
2 From the appropriation accounts under s. 20.435 (4) (b), (gp), (o), (r), and (w), in order
3 to test the feasibility of instituting a system of reimbursement for providers of home
4 health care and personal care services for medical assistance recipients that is based
5 on competitive bidding, the department shall:

6 **SECTION 44.** 49.472 (6) (a) of the statutes is amended to read:

7 49.472 (6) (a) Notwithstanding sub. (4) (a) 3., from the appropriation account
8 under s. 20.435 (4) (b), (gp), (r), or (w), the department shall, on the part of an
9 individual who is eligible for medical assistance under sub. (3), pay premiums for or
10 purchase individual coverage offered by the individual's employer if the department
11 determines that paying the premiums for or purchasing the coverage will not be more
12 costly than providing medical assistance.

13 **SECTION 45.** 49.472 (6) (b) of the statutes is amended to read:

14 49.472 (6) (b) If federal financial participation is available, from the
15 appropriation account under s. 20.435 (4) (b), (gp), (r), or (w), the department may
16 pay ~~medicare~~ Medicare Part A and Part B premiums for individuals who are eligible
17 for ~~medicare~~ Medicare and for medical assistance under sub. (3).

18 **SECTION 46.** 49.473 (5) of the statutes is amended to read:

19 49.473 (5) The department shall audit and pay, from the appropriation
20 accounts under s. 20.435 (4) (b), (gp), and (o), and (r) allowable charges to a provider
21 who is certified under s. 49.45 (2) (a) 11. for ~~medical assistance~~ Medical Assistance
22 on behalf of a woman who meets the requirements under sub. (2) for all benefits and
23 services specified under s. 49.46 (2).

24 **SECTION 47.** 153.01 (2) of the statutes is amended to read:

1 153.01 (2) “Board” means the health care quality and patient safety board ~~on~~
2 ~~health care information.~~

3 **SECTION 48.** 153.05 (2m) (d) of the statutes is created to read:

4 153.05 (2m) (d) By April 1, annually, the entity under contract under par. (a)
5 shall report to the board concerning the fulfillment of the entity’s obligations under
6 the contract.

7 **SECTION 49.** 153.07 (5) of the statutes is created to read:

8 153.07 (5) By January 1, 2006, and at least annually thereafter, the board shall
9 report to the governor on the plans, activities, accomplishments, and
10 recommendations of the board.

11 **SECTION 50.** 153.07 (6) of the statutes is created to read:

12 153.07 (6) The board shall annually assess the extent to which automated
13 information and decision support systems are used by health care providers in this
14 state.

15 **SECTION 51.** 153.07 (7) of the statutes is created to read:

16 153.07 (7) The board shall annually assess options and develop a plan and
17 specific strategies to achieve automation of all health care systems in the state by
18 2010 or as soon as practicable.

19 **SECTION 52.** 153.07 (8) of the statutes is created to read:

20 153.07 (8) The board shall administer the health care quality improvement
21 fund.

22 **SECTION 53.** 153.07 (9) of the statutes is created to read:

23 153.07 (9) The board may accept gifts, grants, bequests, and devises to be used
24 in the execution of its functions.

25 **SECTION 54.** 153.076 of the statutes is created to read:

153.076 Grants and loans. (1) In this section:

(a) “Clinic” means a place, other than a residence, that is used primarily for the provision of nursing, medical, podiatric, dental, chiropractic, or optometric care and treatment.

(b) “Health maintenance organization” has the meaning given in s. 609.01 (2).

(c) “Hospital” has the meaning given in s. 50.33 (2).

(d) “Physician” has the meaning given in s. 448.01 (5).

(2) (a) From the appropriation under s. 20.505 (4) (qb), the board may make grants or loans, under procedures and criteria determined by the board, to clinics, health maintenance organizations, or other health care systems, hospitals, or physicians for any of the following projects:

1. Installation of computer–assisted physician order entry, electronic medical records, or other information system infrastructure, including clinical decision support systems, to improve the quality, safety, and efficiency of patient care.

2. Development of health information exchanges and interoperable systems to facilitate the reporting of quality, safety, and efficiency information for purposes of health care system improvement or related purposes by informing consumers and health care purchasers.

3. Demonstration, through pilot projects, of rapid cycle improvement in quality, safety, and efficiency of care.

4. Facilitation of group purchases of medical technology systems by assisting health care providers in forming collaborative agreements for technology.

(b) Repayment of any loans made under par. (a) shall be deposited into the health care quality improvement fund.

SECTION 55. 153.76 of the statutes is amended to read:

153.76 Rule-making by the independent review board.

Notwithstanding s. 15.01 (1r), the independent review board may promulgate only those rules that are first reviewed and approved by the health care quality and patient safety board ~~on health care information~~.

SECTION 56. 231.03 (intro.) of the statutes is amended to read:

231.03 Powers. (intro.) The authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. In addition to all other powers granted by this chapter, subject to s. 231.035 the authority may:

SECTION 57. 231.035 of the statutes is created to read:

231.035 Health care quality and patient safety board approval.

Beginning on the effective date of this section [revisor inserts date], the authority may not provide any financial assistance to a health facility, hospital, or participating health institution unless the health facility, hospital, or participating health institution demonstrates to the health care quality and patient safety board that it is making efforts to improve medical technology.

SECTION 58. 655.27 (6) of the statutes is amended to read:

655.27 (6) PURPOSE AND INTEGRITY OF FUND. The fund is established to ensure the availability of health care providers in this state, to curb the rising costs of health care by financing part of the liability incurred by health care providers as a result of medical malpractice claims ~~and~~, to ensure that proper claims are satisfied, and to enable the deployment of health care information systems technology for health care quality, safety, and efficiency, as specified in s. 153.076 (2). The fund, including any net worth of the fund, is held in irrevocable trust for the sole benefit of health care providers participating in the fund and proper claimants and for the deployment of

1 health care information systems technology for health care quality, safety, and
2 efficiency by the health care quality and patient safety board. Moneys in the fund
3 may not be used for any other purpose of the state.

4 **SECTION 9101. Nonstatutory provisions; administration.**

5 (1) HEALTH CARE QUALITY AND PATIENT SAFETY BOARD; INITIAL APPOINTMENTS.

6 Notwithstanding the length of terms specified in section 15.105 (13) (b) of the
7 statutes, as created by this act, the initial members of the health care quality and
8 patient safety board shall be appointed by the first day of the 4th month beginning
9 after the effective date of this subsection for the following terms:

10 (a) The representative of hospitals, the employer purchaser of health care, and
11 the representative of the insurance industry, for terms expiring on May 1, 2009.

12 (b) The physician, the representative of health maintenance organizations, and
13 the member who represents the public interest, for terms expiring on May 1, 2011.

14 (2) HEALTH CARE QUALITY AND PATIENT SAFETY BOARD; STUDY OF PHYSICIAN
15 INFORMATION DATABASE. By March 1, 2006, the health care quality and patient safety
16 board shall study and make recommendations to the governor concerning the
17 feasibility of creating a centralized physician information database, including
18 through a joint public and private effort.

19 (3) HEALTH CARE QUALITY AND PATIENT SAFETY BOARD; STUDY OF RULES. By October
20 1, 2006, the health care quality and patient safety board shall study and make
21 recommendations to the governor concerning the rules required and authorized to
22 be promulgated by the department of health and family services under section
23 153.75 of the statutes.

24 (4) HEALTH CARE QUALITY AND PATIENT SAFETY BOARD; PLAN AND STRATEGIES. By
25 January 1, 2007, develop a plan and specific strategies, including awarding grants

1 or making loans under section 153.076 (2) of the statutes, as created by this act, to
2 deploy health care information systems technology for health care quality, safety,
3 and efficiency, within a reasonable time and using reasonable financial investments.
4 The plan shall consider the extent to which an integrated or interoperable system or
5 underlying technology may be most cost effective, including by assessing benefits of
6 the system for supporting rapid deployment for supporting medical care
7 practitioners, promoting accurate and appropriate shared information about
8 individual patients among health care providers, standardizing performance
9 indicators among health care provider organizations to improve organization
10 performance, and public reporting of quality, safety, and efficiency data for consumer
11 and health care purchaser decision making.

12 **SECTION 9121. Nonstatutory provisions; health and family services.**

13 (1) TRANSFER OF FUNCTIONS OF THE BOARD ON HEALTH CARE INFORMATION.

14 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
15 liabilities of the department of health and family services primarily related to the
16 functions of the board on health care information, as determined by the secretary of
17 administration, shall become the assets and liabilities of the department of
18 administration.

19 (b) *Position and employee transfers.* All incumbent employees holding
20 positions in the department of health and family services performing duties
21 primarily related to the functions of the board on health care information, as
22 determined by the secretary of administration, are transferred on the effective date
23 of this paragraph to the department of administration.

24 (c) *Employee status.* Employees transferred under paragraph (b) have all the
25 rights and the same status under subchapter V of chapter 111 and chapter 230 of the

1 statutes in the department of administration that they enjoyed in the department
2 of health and family services immediately before the transfer. Notwithstanding
3 section 230.28 (4) of the statutes, no employee so transferred who has attained
4 permanent status in class is required to serve a probationary period.

5 (d) *Tangible personal property.* On the effective date of this paragraph, all
6 tangible personal property, including records, of the department of health and family
7 services that is primarily related to the functions of the board on health care
8 information, as determined by the secretary of administration, is transferred to the
9 department of administration.

10 (e) *Contracts.* 1. All contracts entered into by the board on health care
11 information in effect on the effective date of this subdivision remain in effect and are
12 transferred to the health care quality and patient safety board. The health care
13 quality and patient safety board shall carry out any obligations under such a contract
14 until the contract is modified or rescinded by the health care quality and patient
15 safety board to the extent allowed under the contract.

16 2. All contracts entered into by the department of health and family services
17 in effect on the effective date of this subdivision that are primarily related to the
18 functions of the board on health care information, as determined by the secretary of
19 administration, remain in effect and are transferred to the department of
20 administration. The department of administration shall carry out any obligations
21 under such a contract until the contract is modified or rescinded by the department
22 of administration to the extent allowed under the contract.

23 (f) *Rules and orders.* 1. All rules promulgated by the board on health care
24 information that are in effect on the effective date of this subdivision remain in effect

1 until their specified expiration date or until amended or repealed by the health care
2 quality and patient safety board.

3 2. All rules promulgated by the department of health and family services that
4 are primarily related to the functions of the board on health care information, as
5 determined by the secretary of administration, that are in effect on the effective date
6 of this subdivision remain in effect until their specified expiration date or until
7 amended or repealed by the department of administration. All orders issued by the
8 department of health and family services that are primarily related to the functions
9 of the board on health care information, as determined by the secretary of
10 administration, that are in effect on the effective date of this subdivision remain in
11 effect until their specified expiration date or until amended or repealed by the
12 department of administration.

13 (g) *Pending matters.* Any matter pending with the board on health care
14 information on the effective date of this paragraph is transferred to the health care
15 quality and patient safety board and all materials submitted to or actions taken by
16 the board on health care information with respect to the pending matter are
17 considered as having been submitted to or taken by the health care quality and
18 patient safety board.

19 (2) HEALTH CARE INFORMATION; RULE MAKING. Notwithstanding the requirement
20 and authorization for the department of health and family services to promulgate
21 rules under section 153.75 of the statutes, before July 1, 2007, the department of
22 health and family services may promulgate under section 153.75 of the statutes only
23 rules that are first approved by the health care quality and patient safety board.

24  (3) PAYMENTS FROM TRANSFER TO HEALTH CARE QUALITY IMPROVEMENT FUND

(a) From the appropriation under section 20.435 (4) (rm) of the statutes, as created by this act, with moneys transferred to the health care quality improvement fund under SECTION 9225 (1) of this act, the department of health and family services shall pay for the following purposes the following amounts:

1. For direct graduate medical education, \$5,200,000 in fiscal year 2005–06 and \$5,200,000 in fiscal year 2006–07.

2. For a rural hospital adjustment, \$900,000 in fiscal year 2005–06 and \$900,000 in fiscal year 2006–07.

3. For a major managed care supplement, \$108,000 in fiscal year 2005–06 and \$108,000 in fiscal year 2006–07.

4. For essential access city hospital care, \$2,635,400 in fiscal year 2005–06 and \$2,646,000 in fiscal year 2006–07.

(b) No moneys from the appropriation under section 20.435 (4) (b) of the statutes may be used for the payments under paragraph (a).

SECTION 9225. Appropriation changes; insurance.

(1) HEALTH CARE QUALITY IMPROVEMENT FUND. There is transferred from the injured patients and families compensation fund to the health care quality improvement fund ~~\$133,843,400~~ in fiscal year 2005–06 and ~~\$8,854,000~~ in fiscal year 2006–07.

\$140,286,000

\$9,714,000

SECTION 9401. Effective dates; administration.

(1) CREATION OF HEALTH CARE QUALITY AND PATIENT SAFETY BOARD. The treatment of sections 15.07 (2) (n), 15.105 (13), 153.05 (2m) (d), 153.07 (5) to (9), 153.076, 231.03, and 231.035 of the statutes and SECTION 9101 (1), (2), (3), and (4) of this act take effect on October 1, 2005.

SECTION 9421. Effective dates; health and family services.

(1) ELIMINATION OF BOARD ON HEALTH CARE INFORMATION. The treatment of sections 15.07 (2) (b) and (3) (bm) 1., 15.195 (6), 16.03 (3), 20.435 (4) (hg), 153.01 (2), and 153.76 of the statutes and SECTION 9121 (1) and (2) of this act take effect on October 1, 2005.

(END)

[INSERT 8-20]

(Not)

for direct graduate medical education; a major
managed care supplement; a pediatric services
supplement; rural hospital^g supplements
under $\$049045(5m)(am)\uparrow$ and an essential
access city hospital under $\$049045(6x)(a)\checkmark$

Kennedy, Debora

From: Johnston, James
Sent: Thursday, January 27, 2005 5:17 PM
To: Kennedy, Debora
Cc: Casper, Tim - Office of Governor Jim Doyle
Subject: LRB# 1649/5 revisions

Hi Debora,

I would like to make the following modifications to the draft.

Under the board's duties please add the following:

Under s.153.076 (2)(a) 2 add -

✓ 2. Development of health information exchanges, integrated healthcare data repositories, or and ...

Under section 9101 (3) add

✓ The board shall also promote the collection and availability of information regarding the quality and price of health care required for consumers and health care purchasers to make wise health care choices. The board shall foster the creation and evolution of public-private partnerships, agreements on standard data sets and reporting protocols, transparency of information, and effective use of information for purchasing purposes, including the development of an integrated healthcare data repository.

Repeal of Rules -

Repeal HFS 120.14 (2),(3) & 120.15 relating to health plan and hospital affiliation and work force surveys. Repeal upon passage of the bill promulgated under s. 153.05(1) 153.45, 153.75?

Repeal HFS 120.14(1) relating to POV data as of 7/1/07 promulgated under s. 153.05(1) 153.45, 153.75?

Many Thanks,
Jim

Kennedy, Debora

From: on behalf of Debora Kennedy
To: Johnston, James
Subject: Redrafting 05-1649/5

Jim--

I have not yet drafted any rules suspension as you requested in your voice mail, because you gave no indication when and for how long the suspension should take place, and because I understood you to say that further changes would be requested. Note that HFS 120.14 is not the only rule that mentions physician office visits; see also HFS 120.03 (19) and 120.31 (a) (a) to (e) and (4) (c) 2. and 3. a.

Debora

Debora A. Kennedy

Managing Attorney
Legislative Reference Bureau
(608) 266-0137
debora.kennedy@legis.state.wi.us

Kennedy, Debora

From: on behalf of Debora Kennedy
To: Johnston, James
Subject: RE: LRB# 1649/5 revisions

After I spoke at length with Peter Dykman, we concluded that there is not authority for the legislature to repeal a rule without, instead, repealing an agency's authority to promulgate the rule. What we did agree, however, was that, instead, it would be possible to prohibit an agency from enforcing a rule that it had already promulgated. I propose to create the following:

153.75 (3) After June 30, 2007 [or whatever date you choose], the department may not enforce rules promulgated under this chapter before July 1, 2007, relating to data to be submitted by physicians or the release of that data by the department [unless this is broader than what you want].

153.75 (4) After [the date that you choose], notwithstanding s. 227.xx [the authority in that chapter for agencies to promulgate rules; I will look it up], the department may promulgate under this chapter only rules that are first approved by the board.

In addition, the provisions under SECTION 9121 (1) (f) 2. should be removed.

Please review.

-----Original Message-----

From: Johnston, James
Sent: Thursday, January 27, 2005 5:17 PM
To: Kennedy, Debora
Cc: Casper, Tim - Office of Governor Jim Doyle
Subject: LRB# 1649/5 revisions

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Repeal HFS 120.14(1) relating to POV data as of 7/1/07 promulgated under s. 153.05(1) 153.45, 153.75?

Many Thanks,
Jim

Kennedy, Debora

From: on behalf of Debora Kennedy
To: Johnston, James
Subject: RE: LRB# 1649/5 revisions

Jim--

I just realized that I forgot to include the rules you want repealed relating to health plan and hospital affiliation and work force surveys; the same principle about not repealing but, instead, prohibiting enforcement, should apply for these as well.

Debora

-----Original Message-----

From: Johnston, James
Sent: Thursday, January 27, 2005 5:17 PM
To: Kennedy, Debora
Cc: Casper, Tim - Office of Governor Jim Doyle
Subject: LRB# 1649/5 revisions

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Many Thanks,
Jim

Kennedy, Debora

From: Johnston, James
Sent: Thursday, January 27, 2005 6:27 PM
To: Kennedy, Debora
Subject: RE: LRB# 1649/5 revisions

Debora,
Yes, please extend the prohibition from enforcing rules to the workforce surveys and POV data rules, since they can't be repealed through this draft.

Thanks,
Jim

-----Original Message-----

From: Kennedy, Debora [mailto:Debora.Kennedy@legis.state.wi.us]
Sent: Thursday, January 27, 2005 6:05 PM
To: Johnston, James
Subject: RE: LRB# 1649/5 revisions

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